

# EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CAROL DOUGHERTY,	:	CIVIL ACTION - LAW
Plaintiff	:	JURY TRIAL DEMANDED
	:	
v.	:	NO. 1:04-cv-01682-YK
	:	(Judge Kane)
CIBER, INC.,	:	(Electronically filed)
Defendant	:	

PLAINTIFF'S REQUESTED JURY INSTRUCTION

Carol Dougherty, Plaintiff in the above captioned matter, requests that the Court include in the instructions to the jury the following instructions:

PLAINTIFF'S JURY INSTRUCTION REQUEST No. 11

When a party has destroyed evidence relevant to the dispute being litigated, a "spoliation inference" arising to the effect that the destroyed evidence would have been unfavorable to the position of the offending party. Schmid v. Milwaukee Electric Tool Co., 13 F.3d 76 (3<sup>rd</sup> Cir. 1994).

Respectfully submitted,

Date: August 19, 2005

By: s/Elliott A. Strokoff  
STROKOFF & COWDEN, P.C.  
Elliott A. Strokoff, Esq.  
I.D. No. 16677  
132 State Street  
PO Box 11903  
Harrisburg, PA 17108-1903  
(717) 233-5353  
Attorneys for Plaintiff  
Carol Dougherty